

BOARD OF SELECTMEN  
September 10, 2007 Regular Meeting Minutes

I. Call to Order/Roll Call

Vice Chairman Ted E. Teichert called the Regular Meeting of the Board of Selectmen to order at 7:00 P.M. in the Selectmen's conference room at the Town Offices. Present at the meeting were: Vice Chairman Teichert and Selectmen Mary K. Lyman, Alex J. Vispoli and Gerald Stabile, Jr. Also present were Town Manager Reginald S. Stapczynski and Town Clerk Randy Hanson. The meeting was duly posted and cablecast live.

II. Opening Ceremonies

Vice Chairman Teichert asked for a Moment of Silence followed by the Pledge of Allegiance.

III. Communications/Announcements/Liaison Reports

Town Manager Stapczynski

- > Thanked the Board for the remembrances for his mother who recently passed away.
- > Announced that on September 11, 2007 there will be a memorial program at 8:30 a.m. in front of the Town Offices.
- > Reported that the Vietnam Memorial, which was recently defaced with graffiti, has been quickly restored.
- > Reported that there has been a dead bird found in the Ballardvale area which was infected with the West Nile Virus. Tom Carbone has traps set up and there is no expectation of spraying.
- > Announced the schools had a very successful opening on Thursday, September 6<sup>th</sup>. Bay State Gas was in early August to make repairs and have received no additional issues nor complaints.
- > Announced that on Friday, September 14, 2007 there will be a reception for the Andover Chroniclers at 2:00 p.m. at the Senior Center.
- > Announced that Andover Day will be held on Saturday, September 15, 2007.
- > Reported that on September 18, 2007 there will be a remembrance for Carol Znamierowski, a long-time Andover employee who recently passed away, at 10:00 a.m. at Ballardvale Green.
- > Noted upcoming seminars to be held: September 20, 2007 at 7:00 p.m. the "Do's and Don'ts of Elections" – location: Board of Selectman's Room; October 24, 2007 at 7:00 p.m. "State Ethics" - location: Memorial Hall Library; September 26, 2007 the Main Street Committee will meet at Memorial Hall Library; November 14, 2007 at 7:00 p.m. regarding presentation of Major Capital Projects – location to be determined.
- > Noted that over the Summer, the Town received a rebate check for \$28,000 from Bay State Gas in order for five schools to switch from oil to gas for one year. Many thanks to Joe Piantedosi and he will use the money for energy conservation for the schools.

III. Communications/Announcements/Liaison Reports (cont.)

Town Manager Stapczynski (Cont.)

- > Noted that his request to ICMA to be a Credentialed Town Manager was honored.

Town Clerk Randy Hanson

- > Reported that the Congressional Primary held on September 4, 2007 was very successful and approximately 27% of the town population participated in the election. The next election will be held on October 16<sup>th</sup> and the last day to register for the election is September 26, 2007.

Selectman Jerry Stabile

- > Announced the Town Yard Task Force meeting will be held on September 11<sup>th</sup> at 7:30 p.m. in the Board of Selectman's Room.
- > Noted there should be a Liaison, and offered to be himself, with the Andover Business Association for ongoing communications with the business community and the Town.

Selectman Mary Lyman

- > Noted there are openings available on the Council of Aging along with other committees in Town and to check the website.
- > Thanked Randy Hanson and her co-workers for an outstanding primary election, especially with the preparation involved after the holiday weekend.

Selectman Alex Vispoli

- > Reported that last week the 5<sup>th</sup> meeting of the Subcommittee for cost models for 2009-10 met. The next meeting will be held on September 15<sup>th</sup> with members from the school department and town officials.

Selectman Ted Teichert

- > Noted that the Youth Center liaison's met on August 29<sup>th</sup>, along with the Department of Labor to review prevailing wages for the group.
- > Verified if the September 17<sup>th</sup> meeting regarding the goals workshop was okay with all board members. Discussed it was an agenda item that evening.

IV. Citizens Petitions and Presentations

None this evening.

V. Public Hearings

Vice Chairman Ted Teichert recused himself from the meeting at this time.

V. Public Hearings (Cont.)

A. Dylan's Bar & Grill – Violation Hearing

Selectman Vispoli opened the hearing at 7:19 p.m. and informed the Board that as per Chapter 138 of the Massachusetts General Laws, Sections 12, 23 and 64, a hearing would be conducted to determine whether the Park Street Holdings LLC, d/b/a Dylan's Bar & Grill, 18-22 Park Street, Andover, holder of an All-Alcoholic Restaurant License, allowed alcoholic beverages to be consumed outside the limits of their licensed premises. He outlined the process to be used during the hearing, reviewed the exhibits and said comments or questions would not be accepted from the audience.

Police Officer David Carriere was sworn in by Town Clerk Randy Hanson and explained the circumstances on the evening of July 29, 2007 at approximately 8:30 p.m. when he observed from his police cruiser two patrons drinking outside of Dylan's on the sidewalk. He noted that there was a wedding reception in progress and that the individuals had glasses in their hands. Officer Carriere testified that he spoke with Mr. Petrovich about the situation and Mr. Petrovich said there was no one outside to his knowledge and his responses to the Officer were rude and arrogant.

Dylan's Bar & Grill Manager Sam Petrovich stipulated the facts were not true and then was sworn in by Town Clerk Randy Hanson. He challenged the Officer's report on the facts of this matter. He questioned how the Officer could have known that the drinks were alcoholic from his cruiser. Mr. Petrovich said the matter had not been brought to his attention and he has no names of the two individuals who were drinking in order to cross-examine their information or verify what they were drinking. He again stated that the Officer never came in the establishment to speak with him directly. Mr. Petrovich displayed pictures of the doorway and signage used in the restaurant which stated no alcoholic drinks outside. Selectman Lyman asked Mr. Petrovich when the signage had been posted and Mr. Petrovich confirmed they were posted at the time of the July 29<sup>th</sup> incident.

Mr. Petrovich now has signs stating alcoholic and/or any drinks cannot leave the restaurant. He stated there were tables and chairs outside for smoking patrons to utilize and he has now removed from until the matter is resolved. He reiterated that his staff has been trained in these matters, has signs in his restaurant and has procedures for a buddy system with other establishments regarding identifications with other restaurants and watches the rules very seriously. He again made note that there is no evidence to prove the allegations and the lack of witnesses. Selectman Vispoli asked Mr. Petrovich again if Officer Carriere came in the establishment and Mr. Petrovich responded he did not, that they spoke on the sidewalk.

Selectman Vispoli asked Officer Carriere if he had the names of the individuals involved and he responded no. He was addressing another call when this incident occurred in front of Dylan's. He stated a wedding reception was going on and he definitely saw a martini glass in an individual's hand and just asked the patrons to go inside.

V. Public Hearings (cont.)

A. Dylan's Bar & Grill – Violation Hearing (cont.)

Lt. Commander James Hashem arose and questioned Mr. Petrovich about the conversation he had with Officer Carriere. He indicated that Mr. Petrovich said under oath he had no conversation with the Officer that evening and just testified that he had indeed spoken to Officer Carriere. Commander Hashem made note that Officer Carriere's credibility had come under question and there was now conflicting testimony. Selectman Stabile made note of a seemingly contentious relationship between the parties involved. Commander Hashem reassured that was not the case. It was noted that if Mr. Petrovich had the license in place for the patio area, this would not be an issue.

Mr. Petrovich said he was not there to question the credibility of the police but to protect his employees and the general public. Selectman Lyman wanted to be on record that the police officers did what they should do under the laws. They were not trying to jeopardize his business and the integrity of this process was very important. Mr. Petrovich stated he is very proud of his

work and wanted the opportunity to defend himself.

Town Clerk Randy Hanson reported that they were awaiting the patio license matter from the ABCC but it is not a very quick turnaround. There is a lot of strain on the agency and she has not heard from them at this time. Sometimes it could take up to six weeks to receive the necessary papers.

A motion was made by Selectman Stabile that there had not been a violation at Dylan's Bar & Grill on July 29, 2007 when alcoholic beverages were consumed outside the limits of their licensed premises. There was no second to the motion.

A second motion was made by Selectman Lyman, seconded by Selectman Vispoli, that there had been a violation at Dylan's Bar & Grill on July 29, 2007 when alcoholic beverages were consumed outside the limits of their licensed premises. The vote was 2-1.

A discussion about the ramifications to this matter was held and Selectman Lyman made a motion, seconded by Selectman Vispoli, to have a letter put in the file recapping the incident and subsequent violation. The vote was 2-1.

Vice Chairman Teichert returned to the meeting.

B. License Transfer

Vice Chairman Teichert opened the public hearing and informed the Board that as per Chapter 138 of the Massachusetts General Laws, as amended, Residence Inn by Marriott, Inc., d/b/a Residence Inn by Marriott, 10400 Fernwood Road, Bethesda, MD, has applied for a transfer of its Innholders Wine and Malt license used at 500 Minuteman Road, Andover, to Residence Inn by Marriott, LLC, d/b/a Residence Inn by Marriott for use at the same premises. Residence Inn by Marriott, LLC has also applied to appoint Marisa Cerasuolo as the designated Manager. He noted that this request has been reviewed and approved by the V. Public Hearings (Cont.)

B. License Transfer (Cont.)

Town Clerk subject to the condition that all other requirements of the Town are met prior to the issuance of the license.

Attorney Howard Miller, representing the applicant, appeared before the Board to discuss their request. Attorney Miller addressed the Board and stated that Ms. Marisa Cerasuolo has been Acting Manager at the facility since February 2007 and apologized for the delay in this transfer request. Ms. Cerasuolo was introduced to the Board and stated she was a 10-1/2 year employee of the Marriott Corporation. Selectman Vispoli asked of her training background and staff training. Ms. Cerasuolo stated the new associates have participated in a TIPS training class about 1-1/2 months ago.

A motion was made by Selectman Vispoli, seconded by Selectman Lyman, to grant the transfer of its Innholders Wine and Malt license. The vote was 4-0.

VI. Regular Business of the Board

A. Amendment to the Traffic Rules and Regulations

Safety Officer Robert Cronin addressed the Board and discussed the following amendments to the Traffic Rules and Regulations:

Schedule 1, Article V, Section 2 – PARKING

Add:

- “15-minute parking” for the two parking spaces on Andover Street in front of the Ballardvale Post Office.
- “15-minute parking” for one parking space on Park Street north to the driveway across from Bartlet Street for 25 feet east.
- “15-minute parking” for three parking spaces off Main Street at the Olde Andover Village municipal parking lot. Handicapped parking as posted.
- “15-minute parking” for two parking spaces at the Park Street Village municipal parking lot bordered by Bartlet Street and Park Street. Handicapped parking as posted.

Selectman Vispoli asked for Officer Cronin’s opinion on making Olde Andover Village four spots rather than the proposed three. There was also discussion as to the signage to be used for free 15-minute parking. Selectman Stabile asked as to how many parking spots there are at Old Andover Village and what is the approximate revenue on parking fees. Officer Cronin and Commander Hashem indicated approximately 90 - 100 spots. Selectman

VI. Regular Business of the Board (Cont.)

A. Amendment to the Traffic Rules and Regulations (Cont.)

Stabile reported this ties into the calls he has been receiving regarding support of local businesses and the ease in short term parking. Commander Hashem explained the balancing act used in making the number of spots requested.

Selectman Vispoli made a motion, seconded by Selectman Stabile, to increase the number of parking spots at Olde Andover Village from three to four. The vote was 3-1.

Selectman Vispoli made a motion, seconded by Selectman Lyman, to accept the amendment as stipulated with the added amendment to increase Olde Andover Village from three to four parking spots. The vote was 4-0.

Selectman Stabile asked for clarification to the vote regarding the appointment of Maria Cerasuolo as designated Manager of Residence Inn. A subsequent motion was made by Selectman Vispoli, seconded by Selectman Lyman, to appoint Marisa Cerasuolo as the designated Manager. The vote was 4-0.

B. Resolution in Support of the Mass Recycles Paper! Campaign

Town Manager Stapczynski reported the regrets of Candy Dann that she could not attend the meeting. She and the Recycling Committee have assisted with the recycling and curbside campaign to keep paper out of landfills and hopes to receive a grant in the future. Selectman Vispoli made a motion, seconded by Selectman Stabile, to sign a Resolution in support of the Mass Recycles Paper! Campaign. Vote was 4-0.

C. Additional Information – Request by the Blacks, 153 Summer Street, for a street opening permit waiver

Town Manager Stapczynski presented additional information regarding the request by the Blacks, 153 Summer Street, for a street opening permit waiver. He distributed a copy of the street opening requirements and noted they are given on an annual basis to all utility companies regarding upcoming street paving. He has spoken with Jack Petkus regarding timeline and if a street has been cut five years ago, it does not necessarily go by calendar date; dependant on when hot top plants open, which is generally the 1<sup>st</sup> of April. Reported the Blacks have four options; do nothing, if want gas, use directional drilling, use propane or wait until April as soon as moratorium is over. Selectman Lyman stated she has spoken with the building permit department and the process is explained to individuals and Mr. Petkus said it was rather easy to convert from propane to gas; just a nozzle.

Selectman Stabile stated if it was possible to do a better job explaining the process to residents when getting work done on their homes. Selectman Vispoli said there was discussion last year about putting information on the website about development and a simplification sheet. Mr. Stapczynski will clarify exactly what homeowner's receive when they apply for permits.

VI. Regular Business of the Board (Cont.)

C. Additional Information – Request by the Blacks, 153 Summer Street, for a street opening permit waiver

Selectman Teichert confirmed they are six months shy of the five year mark. Mr. Stapczynski's recommendation is to uphold the moratorium and give the Blacks the four options stated above. He will write a letter to the Blacks and Selectman Vispoli asked Mr. Stapczynski to please follow-up with a phone call.

Selectman Teichert brought up possibly granting an exemption in this case and waive the six months. The Board discussed how this could open up other residents asking for exemptions to the process and the impact it would have and decided to abide by the current policy.

D. Meeting Dates for September, October, November and December

Suggested dates are: September 17<sup>th</sup> (Work Session), cancellation of the September 24<sup>th</sup> meeting, October 1<sup>st</sup> and 15<sup>th</sup>, November 5<sup>th</sup> and 19<sup>th</sup> and December 3<sup>rd</sup> (Regular and Tri-Board meeting) and 17<sup>th</sup>.

There was discussion among the Board as to the use of the September 17<sup>th</sup> (work session) meeting and the parameters they would like to see accomplished. Selectman Vispoli also reiterated that the context about looking at new positions and new hires was still pending and he reiterated that the Board is not looking to impede the Town Manager. Mr. Stapczynski stated after a discussion with Selectman Major the number one goal still is financial planning for 2009 and the sub-context would be what departments do this year to prepare for next year.

Discussion about the September meetings was held and importance of having a schedule in place. The Board will confirm the meeting on September 17<sup>th</sup> with the Town Manager's office via e-mail and verbally approved the October 1<sup>st</sup> and 15<sup>th</sup>, November 5<sup>th</sup> and 19<sup>th</sup>, and December 3<sup>rd</sup> and 17<sup>th</sup> meetings.

VII. Approval of Consent Agenda Items

A. Appointments and Re-appointments

A motion was made by Selectman Vispoli, seconded by Selectman Lyman to approve the following appointments by the Town Manager:

DEPARTMENT	POSITION	RATE	EFF. DATE
<u>YOUTH SERVICES</u>			
Robert W. Stocks	Program Assistant – PT	C2A	8/13/07

VII. Approval of Consent Agenda Items (Cont.)

A. Appointments and Re-appointments (Cont.)

DEPARTMENT	POSITION	RATE	EFF. DATE
<u>MEMORIAL HALL LIBRARY</u>			
Neil F. Murphy	Library Page – PT (v. K. Kurkel)	L1/1	8/28/07
Jonah Kellman	Library Page – PT (v. Z. Jordan)	L1/1	9/10/07
Michelle Park	Library Page – PT (v. A. Culver)	L1/1	9/11/07
Ariel Kuykendall	Library Page – PT (v. J. Rosenberg)	L1/1	8/29/07
Alan Cohen	Library Aide – PT (v. H. Palsetia)	L2/1	9/20/07
Brenda Leyne	Library Aide – PT (v. F. Hughes)	L2/1	9/11/07
<u>POLICE DEPARTMENT – New Horizons Program</u>			
Mary Wesson	Supervisory Liaison – PT	\$26.99/hr.	9/3/07
Quincy Torres	Program Assistant – PT	\$15.00/hr.	9/3/07

AUDIT COMMITTEE

Kathleen O. Sherman – Term to expire 6/30/08

The vote was 4-0.

B. Road Race

A motion was made by Selectman Lyman, seconded by Selectman Vispoli, granting Veryl D. Anderson, R.N., Executive Director of the Professional Center for Child Development, 32 Osgood Street, Andover, permission to conduct their annual "Trot for Special Tots" road race on Sunday, October 21, 2007 at 10:00 A.M. beginning and ending at the Professional Center. The request has been reviewed and approved with conditions by the Police Department. The vote was 4-0.

## VII. Approval of Consent Agenda Items (Cont.)

### C. One-Day Beer & Wine Licenses

A motion was made by Selectman Stabile, seconded by Selectman Lyman, to approve the request of Carol Round, Andover Federal Credit Union, 19C Lupine Road, Andover, for a one-day beer & wine license on Thursday, September 20, 2007 from 4:00 P.M. to 7:00 P.M. at 19C Lupine Road, Andover for their Annual Meeting. The vote was 4-0.

A motion was made by Selectman Stabile, seconded by Selectman Lyman, to approve the request of Navid Chatsaz, Salon Navid, 63 Park Street, Andover, for a one-day beer & wine license on Sunday, October 14, 2007 from 5:00 P.M. to 8:00 P.M. for a Fashion Show at his place of business. The vote was 4-0.

A motion was made by Selectman Lyman, seconded by Selectman Vispoli, to approve the request of Brian Lynch, Sts. Constantine & Helen Greek Church, Chandler Road, Andover, for two one-day beer & wine licenses on Saturday, September 15, 2007 from 11:00 A.M. to 1:00 A.M. and Sunday, September 16, 2007 from Noon to 1:00 A.M. for their Greek Food Festival at the church. The vote was 4-0.

A motion was made by Selectman Lyman, seconded by Selectman Vispoli, to approve the request of Alan Rice, Keller Williams Realty, 168 North Main Street, Andover, for a one-day beer & wine license on Wednesday, September 26, 2007 from 5:00 P.M. to 9:00 P.M. for a grand opening at their place of business. The vote was 4-0.

It was noted that the applications have been reviewed and approved by the Town Clerk subject to the condition that all other requirements of the Town are met prior to the issuance of the license.

### D. Block Parties

A motion was made by Selectman Vispoli, seconded by Selectman Lyman, to approve the request of Ellen Schneider, 31 Stirling Street, to block off her street at #31, #31 & #34 on Saturday, September 15, 2007 (rain date – Sunday, September 16<sup>th</sup>) from 3:00 P.M. to 9:00 P.M. for a neighborhood block party. The vote was 4-0. After the vote, Town Manager Stapczynski made a correction, stating it should be #30, 31 and 34 Stirling Street. The vote was 4-0.

A motion was made by Selectman Vispoli, seconded by Selectman Lyman, to approve the request of David Metzemaekers, 19 Arundel Street, to block off street on Saturday, September 29, 2007 (raindate – Sunday, September 30, 2007) from 1:00 P.M. to 7:00 P.M. for a neighborhood block party. The vote was 4-0. It was noted that arrangements for these requests have been reviewed and approved with conditions by the Andover Police Department.



VIII. Approval of Minutes of Previous Meetings

A motion was made by Selectman Vispoli, seconded by Selectman Lyman, to approve the minutes of the August 20, 2007 meeting as written. The vote was 4-0.

IX. Sewer Commissioners

A motion was made by Selectman Vispoli to adjourn from the Regular Meeting to act as Sewer Commissioners. Roll call was taken and the following members were present: Vice Chairman Teichert and Selectmen Lyman, Vispoli and Stabile.

A motion was made by Selectman Vispoli, seconded by Selectman Lyman, to approve the following requests to the new sanitary system:

1 Bayberry Lane – TM 119, TL 12  
8 Orchard Crossing – TM 80, TL 23  
12 Blackberry Lane – TM 119, TL 132  
93 Spring Grove Road – TM 98, TL 20

The vote was 4-0.

A motion was made by Selectman Vispoli, seconded by Selectman Lyman, to approve the following requests for connection to the existing sanitary sewer system:

128 Andover Street – TM 115, TL 7  
9 Ballardvale Road – TM 80, TL 15  
4 Bancroft Road – TM 58, TL 23B  
48 Beacon Street – TM 88, TL 55  
4 Charles Circle – TM 63, TL 16B  
2 Harwich Lane – TM 44, TL 33G  
4 Mulberry Circle – TM 190, TL 22  
17 Prides Circle – TM 76, TL 53

The vote was 4-0.

A motion was made by Selectman Vispoli to adjourn as Sewer Commissioners and return to the Regular Meeting. Roll call was taken and the following members were present: Vice Chairman Teichert and Selectmen Lyman, Vispoli and Stabile.

X. Adjournment

A motion was made by Selectman Vispoli, seconded by Selectman Lyman, to adjourn the meeting. The vote was 4 – 0. The meeting adjourned at 8:43 P.M.

Respectfully submitted,

*Mary Kay Poe*

Mary Kay Poe, Recording Secretary